

BUSINESS CLEARANCE MEMORANDUM ADDENDUM**Number 19-0041 Addendum**

<p>Type of Procurement Action:</p> <p><input type="checkbox"/> Sealed Bidding</p> <p><input checked="" type="checkbox"/> Full and Open Competition After Exclusion of Sources (100% Small Business Set-Aside)</p> <p><input type="checkbox"/> Negotiated Under 10 U.S.C. 2304(b)(2)</p> <p><input type="checkbox"/> Negotiated Under 10 U.S.C. 2304(c)()</p> <p><input type="checkbox"/> Negotiated Under 40 U.S.C. 541 Brooks Act</p> <p><input type="checkbox"/> Negotiated Pursuant to Changes Clause</p> <p><input type="checkbox"/> Claim Settlement</p> <p><input type="checkbox"/> Definitization of Letter Contract</p> <p><input type="checkbox"/> Final Price (Incentive, Redeterminable, or EPA)</p>	<p>Type of Clearance:</p> <p><input checked="" type="checkbox"/> Pre-Negotiation</p> <p><input checked="" type="checkbox"/> Post Negotiation</p> <p><input type="checkbox"/> Letter Contract</p>
<p>Solicitation / Contract Number: N66001-18-R-0011 / TBD</p> <p>Activity: Naval Information Warfare Center Pacific (NIWC Pacific)</p>	
<p>Contractor:</p> <p>Name: (b)3, (b)4</p> <p>City/State: Leesburg, VA</p>	
<p>Program: Naval Information Warfare Center Pacific (NIWC Pacific) Information Assurance (IA) and Engineering Division, Code 58000 provides support for the broad business area related to cyber and the development, establishment, and maintenance of assured computer and network operations for the Department of Defense (DoD) and other national security systems and networks. The requirements associated with this effort include the support of the operation and security of the United States Marine Corps Enterprise Network. The Marine Corps Network Operations and Security Center (MCNOSC) is the Marine Corps' nucleus for enterprise data network services, network support to deploying forces, and technical development of network-enabled Information Technology (IT) solutions. The MCNOSC is responsible for enterprise operations and defense of the Marine Corps Enterprise Network (MCEN). The MCNOSC is also responsible for Command and Control (C2) capabilities for Fleet Marine Forces and garrison forces stationed around the world. The MCEN provides the Marine Corps with connectivity to defend network and mainframe services essential for accomplishing everyday tasks. Further, the MCEN is the Marine Corps' portion of the overall DoD Global Information Grid (GIG) and is a designated National Security System (NSS).</p> <p>Description of Supplies/Services: Advanced Cyber Support Services that will support the MCNOSC to ensure full functionality of the MCEN. Services fall in the categories of Program Management, Cyber Support Branch Technical Services, MCEN Operations Support, Local IT Communications Support and Project Implementation Support. Acquisition of these services is required in order to ensure sustainment of and consistency in security and service of the MCEN, as well as C2 capabilities for MARFORCYBER personnel.</p>	

Pricing Structure:	Proposal	Pre-Negotiation	Post-Negotiation
Cost (Excluding COM)	See Section V-H of BCM for proposed cost summary (page 13)		
Cost of Money			
Total Cost			
Fee/Profit (%)			
Base Fee (%)			
Award Fee (%)			
Total			
Ceiling Price			
Sharing Arrangement:			
Clearance Total:			
Performance Period:			
Base: from date of award through 12 months thereafter			
Option 1: from date of option exercise through 12 months thereafter			
Option 2: from date of option exercise through 12 months thereafter			
Option 3: from date of option exercise through 12 months thereafter			
Option 4: from date of option exercise through 12 months thereafter			

Recommendation: Approval is requested to award a single stand-alone C-type, cost-plus-fixed-fee (CPFF) contract in the amount of \$77,929,039.45 to FreeAlliance.com, LLC under solicitation N66001-18-R-0011. Based on analysis herein, the proposal from FreeAlliance.com, LLC represents the best value to the Government and the proposed costs are fair and reasonable.

(Note: Per FAR 15.404-4(c)(4)(ii), the Contracting Officer's signature on the price negotiation memorandum documents that the statutory price or fee limitations have not been exceeded.)

Contracting Officer:

Signature: Jacob Ward

Printed Name: Jacob Ward

Phone: 619-553-9046

Date: 3 September 2019

Legal Counsel (If applicable):

(b)(6)

Phone: 619-553-4702

Date: 9/3/18

Reviewer (If applicable):

Signature: _____

Printed Name/Title: _____

Phone: _____

Date: _____

Approval (If other than Contracting Officer):

Signature: Sharon M. Pritchard

Printed Name/Title: Sharon Pritchard, Chief of Contracting Office

Phone: 619-553-3200

Date: 9-3-19

Unconditional Approval X

Not Approved _____

Conditional Approval _____

Conditions (If applicable):

This is an Addendum to Business Clearance Memorandum (BCM) 19-0041. Upon approval of BCM 19-0041, which recommended award to (b)(3), (b)(4) the contracting officer sent out an email to all offerors allowing for a size challenge of the apparent awardee's (b)(3), (b)(4) size status. On 31 January 2019, (b)(3), (b)(4) protested the size status of (b)(3), (b)(4) On 15 February 2019, the Small Business Administration (SBA) Office of Government Contracting Area II made a formal size determination that (b)(3), (b)(4) was not a small business under the procurement's size standard.

On 28 February 2019, (b)(3), (b)(4) filed a Size Determination Appeal with the SBA Office of Hearings and Appeals (OHA) challenging the SBA Area Office's determination that (b)(3), (b)(4) was not a small business under the applicable size standard. On 2 May 2019, the SBA OHA issued a decision denying (b)(3), (b)(4) appeal.

On 8 May 2019, (b)(3), (b)(4) submitted a pre-filing notification to the United States Court of Federal Claims (COFC) for a bid protest that it intended to file on or after 9 May 2019. In its pre-filing notification, (b)(3), (b)(4) indicated that it intended to file a motion for a temporary restraining order (TRO) and preliminary injunctive relief (to stay the award). On 10 May 2019, in order to avoid further significant delays in litigating whether a TRO was justified, NIWC Pacific legal counsel notified the Department of Justice representative that NIWC Pacific would voluntarily stay contract award until the COFC case was decided.

On 21 August 2019, the COFC Judge issued a decision upholding the SBA's decision that (b)(3), (b)(4) is not a small business for this procurement. Accordingly, as (b)(3), (b)(4) has been determined by the SBA and COFC to not be a small business under the \$27.5M size standard (NAICS Code 541512), (b)(3), (b)(4) is ineligible for award of the contract contemplated by this BCM. As documented in "Step Three" below, the contract specialist conducted a tradeoff analysis, excluding (b)(3), (b)(4) to determine the best value source selection decision.

Step Three – Cost/Technical Trade-off Analysis

Step Three of the source selection methodology is a cost/technical trade-off analysis in order to determine the best value source selection decision. The SSEB report and the results of the cost realism evaluation were provided to the Procuring Contracting Officer (PCO)/Source Selection Authority (SSA). The PCO/SSA independently reviewed the SSEB's evaluation and findings and determined them to be accurate, consistent, and supported in accordance with the evaluation criteria. The PCO/SSA completed a comparative assessment of all offerors and determined award should be made to FreeAlliance.com, LLC on its initial offer. This clearance constitutes the PCO/SSA's Source Selection Decision Document.

In accordance with RFP provision M-TXT-06, proposals were evaluated using a three-step methodology. Step One was an evaluation of: (a) Acceptability of the Offer; and (b) Capability (Organizational Experience and Past Performance). Step Two was an evaluation of the proposed cost. Step Three was a cost/technical trade-off analysis in order to determine the best value source selection decision.

Offerors that received a Marginal or lower evaluation rating for the Organizational Experience factor in Step One were not considered for award. Such offerors were not evaluated during Step Two: Cost Analysis (including cost realism analysis); or Step Three: Tradeoff Process. The non-cost evaluation factors, when combined, were significantly more important than cost. Risk was not evaluated as a separate factor, but evaluated as one aspect inherent in the evaluation of the Organizational Experience factor. Within the non-cost factors, Organizational Experience was more important than Past Performance.

During Step One (b)(3), (b)(4) were found to be (b)(3), (b)(4) in the Organizational Experience factor. In accordance with the RFP, they were not considered during Step Two and were not considered in the tradeoff (Step Three). As documented above, the SBA and COFC determined that (b)(3), (b)(4) was not a small business for this procurement and therefore is ineligible for award. That (b)(3), (b)(4) FreeAlliance as the (b)(3), (b)(4) that were considered in the tradeoff analysis. Their technical ratings and evaluated costs are summarized in the table below.

Offeror	Proposed Cost	Most Probable CPEF	Organizational Experience	Past Performance
(b)(3), (b)(4)		(b)(3), (b)(4)		
FreeAlliance.com, LLC	\$ 77,929,039.45			

FreeAlliance (b)(3), (b)(4) FreeAlliance received the (b)(3), (b)(4) for Organizational Experience (Good vs. Acceptable), the most important technical factor. FreeAlliance (b)(3), (b)(4) received (b)(3), (b)(4) ratings for Past Performance and are considered essentially equal for this factor, which was rated on an (b)(3), (b)(4) basis.

For Organizational Experience, FreeAlliance's proposal contained (b)(3), (b)(4) for all four PWS key areas (b)(3), (b)(4) and (b)(3), (b)(4). FreeAlliance demonstrated a (b)(3), (b)(4) of understanding of Cyber Support Branch Technical Services (PWS Paragraph 5.2), Enterprise Network Operations Support (PWS Paragraph 5.3), Local IT Communications Support (PWS Paragraph 5.4), and Project Implementation Support (PWS Paragraph 5.5). FreeAlliance had (b)(3), (b)(4) in the focus area of Enterprise Network Operations Support (PWS para 5.3), which covered the largest scope of the overall PWS. These (b)(3), (b)(4) demonstrated experience implementing information technology service management (ITSM) per industry best-practices and a capability to establish a quality control plan that addresses process and service improvement. On the other hand, for Organizational Experience, (b)(3), (b)(4) had (b)(3), (b)(4). For PWS Key Area 5.3, (b)(3), (b)(4) received a (b)(3), (b)(4) for not clearly attributing under what reference they were performing the required tasking, which did (b)(3), (b)(4) of the PWS requirements and could lead to potential issues such as insufficient resourcing, personnel or inadequate skillsets to perform the task(s). Also in relation to PWS Key Area 5.3, (b)(3), (b)(4) Reference 2 (pg. 4) lists INS Tier III support of ACAS, EITSM, VPS, HBSS, and SA programs as part of PWS 5.3.10, however these technologies are not required as part of the requirement of the PWS 5.3.10. HBSS is a requirement under PWS 5.3.9.3 (EDM). This (b)(3), (b)(4) performance because it demonstrated that the Offeror (b)(3), (b)(4) of how these technologies and tasks align. Agile-Bot is currently performing the tasks in the focus area of Enterprise Network Operations Support (PWS para 5.3), yet (b)(3), (b)(4) in this focus area, which covers the largest scope of the overall PWS.

Accordingly, FreeAlliance's overall technical proposal was (b)(3), (b)(4). Furthermore, FreeAlliance's total evaluated price was (b)(3), (b)(4) the total evaluated price of (b)(3), (b)(4). Therefore, as the offeror with the (b)(3), (b)(4) FreeAlliance is considered a better value to the Government (b)(3), (b)(4). Additionally, even if (b)(3), (b)(4) FreeAlliance would still be considered the (b)(3), (b)(4) due to its (b)(3), (b)(4) technical proposal.

Summary: In comparison to the proposal submitted by (b)(3), (b)(4) FreeAlliance's proposal is (b)(3), (b)(4) from a technical standpoint and is (b)(3), (b)(4) price. Accordingly, FreeAlliance is considered the overall best value offeror to the Government. It is therefore recommended that award be made to FreeAlliance.

I, Jacob Ward, the Source Selection Authority for this procurement, have independently reviewed all evaluations and recommendations provided herein. As a result of such review, I have determined FreeAlliance.com, LLC to be the awardee and approve the decision to award a contract to FreeAlliance.com, LLC at the proposed price of \$77,929,039.45 (including options) determined to be fair and reasonable and provide best value to the Government.

SECTION VII – OTHER PRE-NEGOTIATION INFORMATION.

There are no other pre-negotiation matters to discuss. Negotiations will not be conducted. Award will be made on initial offers.

SECTION VIII - DECISION TO PROCEED.

The purpose of the business clearance memorandum is to request approval to award a contract to FreeAlliance.com, LLC based on initial offers under solicitation # N66001-18-R-0011. Based on analysis herein, the proposal from the FreeAlliance.com, LLC represents the best value to the Government.

A. Competitive Range (FAR 15.306(c)): Because the Government will not conduct discussions, establishment of a competitive range is not necessary.

B. Discussions (FAR 15.306(a)): The RFP contained the solicitation provision at FAR 52.215-1, which notified offerors that the Government intends to evaluate proposals and award a contract without discussions. This provision provided incentive to offerors to provide in their initial proposal their best terms from a cost or price and technical standpoint as there may not be an opportunity to revise their proposals. Discussions are not necessary in this acquisition.

C. Organizational Conflict of Interest (FAR 9.5): No offerors identified potential OCI issues in response to the RFP and no Organizational Conflicts of Interest are anticipated.

SECTION IX – PRE-AWARD

COMPLIANCES (If competitive, document specific information for each offeror):

Check if N/A	DOCUMENT/APPROVAL CHECKLIST	DATE
	Review of Online Representations & Certifications Application (FAR 4.1201(c))	See Note 1 below
	Determination of Responsibility (FAR 9.103) and financial stability (FAR 9.104-1(a)).	See Note 2 below
✓	HCA Waiver of Cost or Pricing Data (FAR 15.403-1)	
✓	Certificate of Current Cost or Pricing Data (FAR 15.406-2)	See Note 3 below
✓	Approved Make or Buy Plan (FAR 15.407-2)	
✓	Contractor's Estimating System determined acceptable by ACO (DFARS 215.407-5)	See Note 4 below
✓	Pre-Award Disclosure Statement - Cost Accounting Practices and Certification (FAR 15.408)	See Note 5 below
	Contractor's Accounting System determined adequate by CAO/DCAA (FAR 16.301-3)	See Note 6 below
✓	Determination to make single award for IDIQ Advisory and Assistance Services over 3 years and \$11.5M (FAR 16.504(c)(2)(A) or (B))	
✓	Subcontracting Plan determined adequate (FAR 19.705-4)	See Note 7 below
✓	Approval of SDB subcontracting goal less than 5% (DFARS 219.705-4)	
	EEO compliance requested/obtained (FAR 22.805).	See Note 8 below

	Verification of VETS-4212 Reporting (FAR 22.13)	See Note 9 below
✓	Disclosure Statement determined current, accurate and complete by ACO (FAR 42.302(a)(11)).	See Note 10 below
✓	Contractor EVMS verified compliant with DOD criteria by DCMA (DFARS 242.302(S-71)).	See Note 10 below
✓	Contractor Purchasing System determined to be approved by the ACO (FAR 44.304)	See Note 10 below
✓	Property System reviewed for acceptability by ACO (FAR 45.105).	See Note 10 below
	Compliance with DOD Instruction 7640.02	See Note 11 below

Note 1: FreeAlliance's representations and certifications (reps and certs) were reviewed on the System for Award Management (SAM) website URL: <https://www.sam.gov/portal/public/SAM>. All applicable reps and certs in SAM have been satisfactorily completed. Furthermore, the contract specialist verified that FreeAlliance did not provide affirmative responses in paragraph (b)(1) or (2) of the provision at 52.209-11 or in paragraph (a)(1) of the provision at 52.209-5.

Note 2: FreeAlliance has been determined to be responsible within the meaning of FAR Subpart 9.1 and is financially stable. Upon receipt of proposals, a search of FreeAlliance was made on the SAM website, URL: <https://www.sam.gov/portal/public/SAM>, and no active exclusion records were found. An additional review of the SAM website for exclusions information will be performed directly before award. Furthermore, there is no unfavorable information reflected on FAPIIS for FreeAlliance.

Note 3: This action does not require certified cost or pricing data because the exception at FAR 15.403-1(b)(1) applies which prohibits the collection of certified cost or pricing data when the contracting officer determines that prices agreed upon are based on adequate price competition.

Note 4: In accordance with DFARS 215.407-5-70(c)(1)(iii), the contracting officer shall not apply the estimating system disclosure, maintenance, and review requirements to other than large business contractors.

Note 5: Cost Accounting Practices and Certification (FAR 15.408) – FreeAlliance represented itself as a small business in provision 52.219-1 under the applicable NAICS code. As such, the contractor is exempt from full and modified Cost Accounting Standards (CAS) coverage as stated in 48 CFR 9903.201-1(b).

Note 6: FreeAlliance's accounting systems is adequate for determining costs applicable to this contract in accordance with the limitation at FAR 16.301-3. This determination is based on the favorable findings of DCAA; see DCAA Audit Report Number: 6431-2015A17740002, dated 3 September 2015.

Note 7: In accordance with FAR 19.702(b)(1), subcontracting plans are not required from small business concerns.

Note 8: On 28 August 2019, the contract specialist requested EEO clearance for FreeAlliance, as well as its (b)(3), (b)(4) from the cognizant regional Office of Federal Contract Compliance Programs (OFCCP) office. A response has not been received to date but EEO compliance will be verified before contract award.

Note 9: To verify that FreeAlliance had submitted its VETS-4212 report for the most recent period, the contract specialist checked the online VETS-4212 filing confirmation listing at <https://www.dol.gov/vets/vets4212.htm#verify>. The contract specialist was able to verify that FreeAlliance is current with its VETS-4212 filing.

Note 10: As small businesses, FreeAlliance does not meet the threshold for review of their estimating, purchasing, or property systems. For the same reason, FreeAlliance is not required to file a CASB disclosure statement or to be EVMS compliant.

Note 11: This clearance has fully considered all contract audit findings and recommendations in developing the pre/post-negotiation position.

SECTION X – POST-NEGOTIATION

Not applicable. Negotiations were not conducted. This is a pre/post clearance.